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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE:

THE HON'BLE MR JUSTICE M.F.SALDANHA

W. P. NO. 2591 / 1996

BETWEEN:

Sri. Sabjan Sab, S.  
son of Sheik Hussain alias  
Ghulam Hussain  
aged about 70 years,  
residing at No.32/2  
Chowdappa Block, Devi Road,  
Bangalore-560 084.

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PETITIONER

(By Sri M. Ramamohan, Advocate.,)

A N D:

1. C. Mustaq Ahmed,  
son of Mohammed Mastan,  
major.
2. Smt. Razia Begum  
w/o late Mohiddin Ghose  
major.

both the respondents 1 and 2  
are residents of Sondekoppa,  
Nelamangala Taluk,  
Bangalore Rural Dist.

3. The Chairman, Land Tribunal,  
Nelamangala Taluk, Nelamangala,  
Bangalore Rural District.
4. The State of Karnataka  
represented by its  
Secretary, Revenue Department,  
Vidhana Soudha,  
Bangalore-560 001.

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RESPONDENTS

(By M/s. A.C.C. Associates, for R2.,)


" Sri S.V. Jagannath, Addl. G.A. for R3 & R4.,)

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Writ Petition filed under Articles 226 and 227  
of the Constitution of India, praying to quash the  
order of R3 dated 9-7-81 vide Ann.F etc.,

This Petition coming on for hearing this day,  
the Court made the following:-

ORDER



O R D E R

I have heard the petitioner's learned Advocate, the learned Advocate who represents R-1 and 2 as also the learned Govt. Advocate. At the inception, the respondents' learned Advocate requested for some time because he desires to place certain facts on record. Normally, I would not have precluded the learned Advocate from doing this if the Court were to examine the matter on merits. However, what has transpired is that the petitioner's learned Advocate points out that some time in the year 1981, the Tribunal is alleged to have passed an order in favour of the applicant who claims to be the occupant on 9-7-81 and that this fact came to the notice of the petitioner only when R-1 and 2 started cutting the trees and he was required to move the Civil Court for appropriate orders. On an examination, ~~of~~ the original proceeding does indicate that the name of the petitioner has not been mentioned and secondly that notice was not issued to the petitioner nor was the petitioner afforded an opportunity of contesting the matter. Learned Advocate who represents

R-1 and 2 has raised a serious objection and he points out that the writ petition is filed after the lapse of more than 16 years but this is answered by the petitioner's learned Advocate who points out that until 1995, his client was not aware of the order in question. It is true that a long time has elapsed but this cannot be held against the petitioner in these circumstances since the petitioner was obviously unaware of the order. In these circumstances, the Court has no option except to set-aside the order dated 9-7-81 and to direct the Tribunal to redécide the case after hearing the parties. Since this is an old proceeding and the parties are represented before me, it will be unnecessary to issue any fresh notice and the parties or their representatives are directed to appear before the Tribunal on 20-7-1998 when the Tribunal shall <sup>issue</sup> further directions with regard to the date of hearing etc., in the case.

2. The Petition succeeds to this extent and stands disposed of. No order as to costs.

Sd/-  
JUDGE

MSU/\*120698

*This case was put up for signature  
by the stenographer on 4/7/98*

*[Signature]*